IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1156/06

1. Shyam Manikchand Gupta & Ors. .....Applicant

V/s.

The state of Maharashtra .... Respondent

Shri. Michalas Gonsalves with Ms.Daksha M. Shah for the applicant.
Miss.M.H. Mahatre APP for the State

CORAM : V.M. KANADE, J.
DATE : 17/04/06

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicants were arrested in connection with C.R.No.I-283/2005 registered with Wagle Estate Police Station, District Thane, for the offences punishable U/s.302, 323 r/w 34 of IPC.

3. It is alleged that applicants poured kerosene on the deceased who was wife of applicant No.1 and

set her ablaze. As a result of which she died. Learned Counsel for the applicants submitted that two dying declarations recorded at Civil Hospital by the police and Special Executive Magistrate within four hours after the incident had taken place. However, the deceased did not implicate any of the accused. In both the dying declarations she has stated that as a result of accident she has received burn injured. One of statements of her neighbour has implicated the present accused. He submitted that chargesheet has been filed.

4. On the other hand learned APP for the State invited my attention to the panchanama of scene of offence and submitted that statement made by the deceased in her dying declarations was not supported by spot panchanama. She further submitted that in a statement by one of the neighbour who had accompanied the deceased while she was being taken to the hospital, has stated that the deceased had told her that she was under lot of tension on account of her in-laws. She further invited my attention to the statement of complainant who is brother of deceased who has stated that before the deceased died, she had

stated that applicants were responsible for her death. Taking into consideration the fact that deceased has not implicated applicants in her dying declarations, since only evidence is in the form of circumstantial evidence, in my view, this is a fit case for grant of bail.

5. The applicants are in jail since 9th September, 2005. Trial is not likely to commence in the immediate future. Considering this circumstances, applicants are entitled to be released on bail.

6. The applicants be released on bail in the sum of Rs.5000/- each with one or two sureties in the like amount. The applicants shall not tamper the evidence or threaten the witnesses. The applicants shall report to Wagle Estate Police Station, District Thane once in a month.

5. If any complaint is received by I.O. against the present applicant, liberty is given to the Public Prosecutor to apply for cancellation of bail.

6. Trial court shall not be influenced by any observations made by this court while passing this

order and the same may not be construed to mean as an expression of opinion of the case and decide the case on its own merit and in accordance with law.

7. Application is accordingly disposed of.

V.M. KANADE, J.